

REMARKS

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-3 and 5-32 remain pending in the application. Claims 1-3, 5-23 and 26-29 have been amended and claims 33-34 have been added.

Applicant appreciatively notes that claim 20 is objected to as being dependent upon a rejected based claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 2, 3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Geschke et al. (U.S. Pat. 5,661,651). In response, claim 1 has been amended and is believed to be patentable over this combination of references for the reasons discussed below.

Neither Lowe et al. nor Geschke et al. include a processor as recited in amended claim 1. The processor and amended claim 1 combines the signals from a position determining device and from the wireless signals indicative of vehicle displacement to determine the position of the vehicle. For at least this reason, claim 1 should be allowable over this combination of references.

Further, Lowe et al. teaches that the transponder receives an interrogation signal in order to transmit the distance that the vehicle has traveled. Although Geschke et al. teaches periodically sending a signal, the Lowe et al. "transmission upon interrogation" disclosure teaches away from Geschke et al. Thus, the ordinary artisan would not make the Examiner's proposed combination of Lowe et al. and Geschke et al. In addition, the Examiner has not pointed to any specific suggestion in either of the references for making the proposed combination of Lowe et al. and Geschke et al. The fact that both references have sensors is irrelevant and is not a suggestion. Accordingly, at least the first criterion has not been met, a prima facie case of obviousness has not been established, and the rejected claims are not unpatentable over the improperly applied references. Additionally, the ordinary artist would not combine Lowe et al. and Geschke et al. because they relate to a vehicle diagnostic system, which really has nothing to do with a position determining system. Accordingly, this rejection should be withdrawn.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view

of Geschke et al. and further in view of Huang (U.S. Pat. 6,175,302). Applicant respectfully traverses this rejection.

Huang does not overcome the deficiencies discussed above with respect to Lowe et al. and Geschke et al. Further, claim 5 is dependent on independent claim 1 and should be allowable. Claim 5 recites additional, important limitations and should be patentable along with claim 1 as well as on its own merits. Accordingly this rejection should be withdrawn.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Geschke et al. and further in view of Miller et al. (U.S. Pat. 4,694,295). Applicant respectfully traverses this rejection.

Miller et al. does not overcome the deficiencies discussed above. Further, claim 6 is dependent directly or indirectly on claim 1 and should be allowable. Claim 6 recites additional, important limitations and should be patentable along with claim 1 as well as on its own merits. Accordingly, this rejection should be withdrawn.

Claims 11, 12, 15-18 and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Geschke et al. and further in view of Davis et al. (U.S. Pat. 5,177,685). In response, claims 11, 23 and 29 have been amended and should be allowable. Accordingly, this rejection should be withdrawn.

Claim 11 is similar to claim 1, except claim 11 is recited in means-plus-function format. Therefore, the arguments presented above with respect to claim 1 are equally applicable. Claims 12, 15-18 and 21-32 depend on claim 11 and recite additional important limitations and should be allowable along with claim 11. Accordingly, this rejection should be withdrawn.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and Geschke et al. and further in view of Huang.

Huang does not overcome the deficiencies discussed above with respect to Lowe et al. and Geschke et al. Further, claim 13 is dependent directly or indirectly on claim 11 and should be allowable. Claim 13 recites additional, important limitations and should be patentable along with claim 11 as well as on its own merits. Accordingly, this rejection should be withdrawn.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and in view of Miller et al. Applicant respectfully traverses this rejection.

Claim 14 is dependent on claim 11 and should be allowable. Claim 14 recites additional, important limitations and should be patentable along with claim 11 as well as on its own merits.

Accordingly, this rejection should be withdrawn.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowe et al. in view of Davis et al. and Geschke et al. and further in view of Maples (U.S. Pat. 4,833,281). Applicant respectfully traverses this rejection.

Maples does not overcome the deficiencies discussed above with respect to Lowe et al. and Geschke et al. Claim 19 is dependent on claim 11 and should be allowable. Claim 19 recites additional, important limitations and should be patentable along with claim 11 as well as on its own merits. Accordingly, this rejection should be withdrawn.

All objections and rejections having been addressed, it is respectfully submitted that the present application should be in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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